

REC'D
FEDERAL ELECTION COMMISSION
MAR 19 1991

ANDREW M. HOCHBERG, P. C.
ATTORNEY AT LAW
184 NORTH STREET
SUITE 225
PITTSFIELD, MASSACHUSETTS 01201

91 MAR 19 PH 2:01

TELEPHONE (413) 499-2323
TELEFAX (413) 499-3915

March 15, 1991

Federal Action Commission
Office of General Counsel
999 East Street, NW
Washington, DC 20463

91 MAR 19 PM 4:43

FEDERAL ELECTION COMMISSION

Re: Committee to Elect Sherwood Guernsey to the U.S. Congress

To Whom it May Concern:

This office represents the Committee to Elect Sherwood Guernsey to the U.S. Congress ("Committee") regarding its plans to obtain funds to finance the campaign of Sherwood Guernsey (the "Candidate") for election to the United States Congress. The Candidate requests an expedited advisory opinion pursuant to 11 CFR 112.1 et seq. regarding his plans to obtain those funds as the special election to fill the seat of Congressman Silvio O. Conte is scheduled for April 30, 1991.

Specifically, this Advisory Opinion Request requests an opinion regarding the application of the Federal Election Campaign Act of 1971, as amended (the "Act") to two sources of funding which the Candidate seeks to utilize to fund the campaign.

The first issue regarding a source of funding involves the application of 11 CFR 100.7 (D). Specifically, the candidate seeks to obtain a loan using his marital home which is held by the Candidate and his spouse, Carol C. Guernsey ("Spouse") as tenants by the entirety. The Spouse's signature is required to enable the Candidate to use jointly owned assets as collateral for the loan.

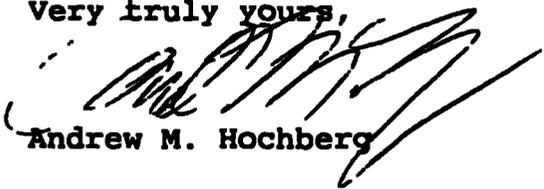
The present value of the marital home as indicated by the tax assessed value of \$249,000 (see Exhibit "A" attached hereto and made a part hereof). The total equity in the home, calculated as total tax valuation less the outstanding value amount financed is approximately \$230,000. The candidate seeks to obtain a loan in the maximum amount of \$110,000 using the marital home as security. He, therefore seeks an Advisory Opinion to determine whether the Spouse's signature as co-signer of the proposed loan is consistent with 11 CFR 100.7(D).

Federal Action Commission
March 15, 1991
Page 2

Additionally, the candidate seeks to withdraw 50 percent of the value of jointly held assets held in a Kidder, Peabody Investor Account ("Kidder, Peabody") (see Exhibit "B" attached hereto and made a part hereof). The value of the Kidder, Peabody portfolio is approximately \$68,000 consisting of cash and liquid equities. The Candidate seeks to withdraw cash in an amount less than or equal to 50 percent of the jointly held assets without liquidating the equities. The Candidate requests an advisory opinion to determine whether withdrawing 50 percent of the value of the account in cash without liquidating the equities is consistent with the provisions of 11 CFR 110.10(3).

As noted above, the Candidate requests an Advisory Opinion within 20 days as this Advisory Opinion Request is submitted within 60 days of the date of the scheduled election.

Very truly yours,



Andrew M. Hochberg

AMH/jbk/amh

cc: Committee to Elect Sherwood Guernsey to the U.S. Congress



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

March 21, 1991

Andrew M. Hochberg, P.C.
184 North Street
Suite 225
Pittsfield, MA 01201

Dear Mr. Hochberg:

This refers to your letter dated March 15, 1991, concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the use by a campaign of assets jointly owned by the candidate and his spouse.

You state that you represent the Committee to Elect Sherwood Guernsey to the U.S. Congress, the principal campaign committee of Sherwood Guernsey in the special election in the First C.D. of Massachusetts, scheduled for April 30, 1991.

The candidate seeks to obtain a loan no greater than \$110,000, using as collateral his marital home which is jointly held with his wife, as tenants by the entirety. You state that the present value of the home as indicated by the tax assessed value is \$249,000 and that the total equity in the home calculated as the tax valuation "less the outstanding value amount financed" is approximately \$230,000. You ask whether his wife's co-signature would make her a contributor under these circumstances.

The candidate also seeks to withdraw 50 percent of the value of jointly held assets held in a Kidder, Peabody Investor Account consisting of cash and liquid equities and valued at approximately \$68,000. Specifically, he wants to withdraw cash in an amount less than or equal to half that amount without liquidating the equities. You ask whether this withdrawal would cause the candidate's wife to be a contributor.

The Act authorizes the Commission to issue an advisory opinion in response to a "complete written request" from any person with respect to a specific transaction or activity by the requesting person. 2 U.S.C. §437f(a). Commission regulations explain that such a request "shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made." 11 CFR 112.1(c).

In view of the cited requirements, you will need to provide clarification and information as to a few points referred to in the questions set out below.

- (1) Please clarify what is meant by the "total equity" in the home. Include in your response a statement as to whether this means that the mortgage is totally paid with the exception of \$19,000.
- (2) Please explain in further detail how the Kidder, Peabody account is held. Your answer should include a description of:
 - (a) how the account is jointly held, i.e., tenants in common, joint tenants with right of survivorship, totten trust;
 - (b) the rights of each spouse to unilaterally withdraw funds without the signature of the other (with or without the requirement to reimburse); and
 - (c) whether the rights of each spouse vary depending on the instrument or equity in the account, and, if so, how they vary.
- (3) Please enclose Exhibits A and B, which were referred to in your letter but not sent with it.

Upon receiving your responses to the above questions, this office and the Commission will give further consideration to your inquiry as an advisory opinion request. If you have any questions concerning the advisory opinion process or this letter, please contact the undersigned.

Sincerely,

Lawrence M. Noble
General Counsel

BY:

N. Bradley Litthfield
N. Bradley Litthfield
Associate General Counsel

SSP

FEDERAL ELECTION COMMISSION

ANDREW M. HOCHBERG, P. C.
ATTORNEY AT LAW
184 NORTH STREET
SUITE 225
PITTSFIELD, MASSACHUSETTS 01201

91 MAR 25 PM 12:21

TELEPHONE (413) 499-2323
TELEFAX (413) 499-3915

March 21, 1991

VIA TELEFAX AND FIRST CLASS MAIL

Lawrence M. Nobel, General Counsel
Federal Election Commission
Office of General Counsel
99 East Street, N.W.
Washington, DC 20463

ADR
1991-10

91 MAR 26 AM 10:31

FEDERAL ELECTION COMMISSION

Re: Committee to Elect Sherwood Guernsey to the U.S. Congress

Dear Mr. Nobel:

In response to your letter of March 21, 1991, I offer the following:

1. The outstanding amount of the mortgage is approximately \$20,000. The tax assessed value upon which the bank will base its valuation of the home for the purpose of the loan is \$249,000. Therefore, I consider the total equity in the home to be \$249,000, less the outstanding amount of the mortgage, leaving the "total equity" in the approximate amount of \$230,000.

2. (a) The Kidder-Peabody Account is held as joint tenants with right of survivorship and not as tenants in common or as a totten trust.

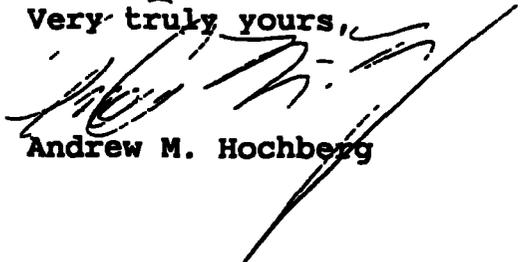
(b) Withdrawal of funds from the Kidder-Peabody Account requires the signature of each spouse, unless Kidder-Peabody receives written authorization from the non-signing spouse that funds may be disbursed in the name of only one spouse.

(c) The rights of each spouse do not vary depending upon the instrument or equity in the account. Each spouse has equal rights to the assets in the Kidder-Peabody Account.

Lawrence M. Nobel, General Counsel
Federal Election Commission
Page 2
March 21, 1991

I enclose copies of Exhibits A and Exhibits B which were referred to in my letter of March 15, 1991.

Very truly yours,



Andrew M. Hochberg

AMH/d11
enc.

cc: Committee to Elect Sherwood Guernsey
to the U.S. Congress

Exhibit A

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE COLLECTOR OF TAXES

PROPERTY TAX STATEMENT FOR THE YEAR ENDING DECEMBER 31, 1990

PROPERTY IDENTIFICATION	REAL STATE VALUE	STATE TAX VALUE	LOCAL TAX VALUE	TOTAL TAX VALUE	TAXES	REMARKS
1 Third Acre	249000	154.89	0.00	154.89	154.89	154.89
Address: 304	MAP	Parcel: 8	BOOK: 705	PAGE: 306		
<p>PROPERTY CLASSIFICATION: 01</p> <p>REMARKS: FIRE DEPT LIENS WATER SEWER RITFRMNT RPTT</p>						
<p>TOTAL TAX VALUE: 249000</p> <p>TOTAL TAXES: 154.89</p>					<p>154.89</p>	
<p>PROPERTY IDENTIFICATION: 249000</p> <p>REAL STATE VALUE: 249000</p> <p>STATE TAX VALUE: 154.89</p> <p>LOCAL TAX VALUE: 0.00</p> <p>TOTAL TAX VALUE: 154.89</p>						

Make payment for: TOWN OF WILLIAMSTOWN, MA 01267
 Here Month 9-6 First District Rate is 6.5
 31 Nov-90 - 30 DAYS FROM POSTMARK 5

154.89
 1234.56
 2490.12

IMPORTANT INFORMATION: Payment of this bill is required by the 15th day of the month following the month in which the taxes are levied.

Kidder, Peabody Investor Account

GE Financial Services

II SHERWOOD GUERNSEY
 CAROL C GUERNSELY
 402 HANCOCK ROAD
 WILLIAMSTOWN MA 01267

Printed
 02/01/97

Statement Period: Feb 01 - Feb 28, 1991 Page 1 of 3
 Account Number 305-53880-079 Tax ID Number 131-38-0946

Your Registered Representative
 PAUL I CLARK
 1 MONARCH PLACE-141H FLOOR 1414 MAIN STREET
 SPRINGFIELD MA 01144 (413) 499-2603

Exhibit 15

February Portfolio Balance Sheet

H SHERWOOD GUERNSEY

	Previous Month	Added/ Purchased	Subtracted/ Sales	Changes In Portfolio Value	Current Month	% of Portfolio
Cash and Money Market Funds	34,154.49	517.71	0.00	0.00	34,672.20	50.9%
Equities	32,683.14	0.00	0.00	784.61	33,467.75	49.1%
Net Worth of Portfolio	66,837.63				68,139.95	100.0%

Change In Net Worth

Previous Month 66,837.63
 Portfolio Performance 1,302.32
 Net Flow Out of Account 0.00
 Current Month 68,139.95



Kidder, Peabody Investor Account

Statement Period: Feb 01 - Feb 28, 1991 Page 3 of 3
Account Number 305-53880-079 Tax ID Number 131-38-0946

Transactions (Continued)

Cash and Money Market Funds	Price Per Share	No of Shares	Added	Subtracted	Balance	Total Dividends
Kidder, Peabody Webster Cash Reserve Fund						
Opening Balance					34,154 49	
02/04/91 Share Purchase	1 00	350	350 82			166 89
02/27/91 Share Dividend	1 00	166	166 89			166 89
Closing Balance					34,672 20	166 89
Total Money Market Funds						
Cash			517 71	0 00	34,672 20	166 89
Total Cash and Money Market Funds			517 71	0 00	34,672 20	..

Information

Tax Information	Subject To IRS 1099 Reporting This Period	This Year	Not Subject To IRS 1099 Reporting This Period	This Year	Total This Period	This Year
Earnings						
Cash Dividends From Liquites	350 82	376 64			350 82	376 64
*Money Market Fund Dividends	166 89	415 39			166 89	415 39
Total Earnings	517 71	792 03			517 71	792 03

An (*) indicates that our agent bank will be reporting that category of income or taxes withheld (if applicable)

Cash	Opening Balance	Added	Subtracted	Closing Balance
Opening Balance	0 00			
Dividends And Interest		350 82		
Money Market Transactions			350 82	
Closing Balance				0 00

